

### REMARKS

This Amendment is being filed in response to the Office Action mailed on September 24, 2010, which have been reviewed and carefully considered. Reconsideration and allowance of the present application in view of the remarks to follow are respectfully requested.

Claims 1-3, 5-8 and 10-23 are pending in this application, where claims 1 and 8 are independent.

In the Office Action, claims 1, 5, 8, 10 and 14 are rejected under 35 U.S.C. §103(a) over U.S. Patent No. 7,058,852 (Sims) in view of U.S. Patent Application Publication No. 2008/0074975 (Hwang). Further, claims 1 and 5-8 are rejected under 35 U.S.C. §103(a) over U.S. Patent No. 6,469,978 (Ohata) in view of U.S. Patent Application Publication No. 2002/0150009 (Tokumitsu) and Hwang. Applicants respectfully traverse and submit that claims 1, 5-8, 10 and 14 are patentable over Sims, Hwang, Ohata and Tokumitsu for at least the following reasons.

As correctly note on page 3, last paragraph, and page 7, third paragraph of the Office Action Sims, Ohata and Tokumitsu do not disclose or suggest "wherein the new defect management area is preceded by a user data area or a free area and is followed by a user data area or a free area, a free area being an area free to be assigned either as a user data area or a new defect management area." Hwang is cited in an attempt to remedy

the deficiencies in Sims, Ohata and Tokumitsu.

Hwang is directed to method and drive for recording medium defect management. As shown in FIG 1, a temporary defect management area (TDMA) is preceded by a spare area 1.

It is respectfully submitted that Sims, Hwang, Ohata, Tokumitsu, and combinations thereof, do not disclose or suggest the present invention as recited in independent claim 1, and similarly recited in independent claim 8 which, amongst other patentable elements, recites (illustrative emphasis provided):

assignment means for adapting the assignment information depending on a detected defect, detected during recording, by creating new defect management area having a starting physical address near the detected defect, wherein the **new** defect management area is **preceded by a user data area**.

Creating a new defect management area which is preceded by a user data area is nowhere disclosed or suggested in Sims, Hwang, Ohata and Tokumitsu, alone or in combination. Rather, Hwang discloses that a temporary defect management area (TDMA) is preceded by a spare area 1.

Accordingly, it is respectfully requested that independent claims 1 and 8 be allowed. In addition, it is respectfully submitted that claims 2-3, 5-7 and 10-23 should also be allowed at least based on their dependence from independent claims 1 and 8.

In addition, Applicants deny any statement, position or averment of the Examiner that is not specifically addressed by the foregoing argument and response. Any rejections

and/or points of argument not addressed would appear to be moot in view of the presented remarks. However, the Applicants reserve the right to submit further arguments in support of the above stated position, should that become necessary. No arguments are waived and none of the Examiner's statements are conceded.

In view of the above, it is respectfully submitted that the present application is in condition for allowance, and a Notice of Allowance is earnestly solicited.

Respectfully submitted,



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